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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

LEVON DAVIS,

Defendant and Appellant.

B216391

(Los Angeles County
Super. Ct. No. BA072974)

APPEAL from a judgment of the Superior Court of Los Angeles County, Norm Shapiro, Judge. Dismissed.

Ann Kraus, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance on behalf of Plaintiff and Respondent.

Defendant, Levon Davis, purports to appeal from an April 20, 2009 order denying his coram nobis petition. We previously affirmed the judgment in defendant's direct appeal. (*People v. Davis* (Sep. 26, 1994, B080241) [nonpub. opn.].) On May 3, 2007, we summarily denied defendant's habeas corpus petition. (*In re Davis* (May 3, 2007, B198415) [nonpub. order].) On July 25, 2008, we summarily denied a second habeas corpus petition filed by defendant. (*In re Davis* (Jul. 25, 2008, B209343) [nonpub. order].) We issued an order to show cause re dismissal and set the matter for oral argument as we are required to raise issues concerning jurisdictional questions on our own motion. *Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.)

Penal Code section 1265, subdivision (a) defines the authority of a trial court after an appeal has been filed in the case of a coram nobis petition: "After the certificate of the judgment has been remitted to the court below, the appellate court has no further jurisdiction of the appeal or of the proceedings thereon, and all orders necessary to carry the judgment into effect shall be made by the court to which the certificate is remitted. However, if a judgment has been affirmed on appeal no motion shall be made or proceeding in the nature of a petition for a writ of error coram nobis shall be brought to procure the vacation of that judgment, except in the court which affirmed the judgment on appeal. When a judgment is affirmed by a court of appeal and a hearing is not granted by the Supreme Court, the application for the writ shall be made to the court of appeal." Penal Code section 1265, subdivision (a) requires dismissal of an appeal from the denial of a coram nobis petition when the judgment was previously affirmed on direct appeal. (*People v. Thomas* (1955) 45 Cal.2d 433, 439; *People v. Ponce* (1951) 103 Cal.2d 271, 272; see *People v. Allenthorp* (1966) 64 Cal.2d 679, 681.) Thus, we have no jurisdiction to consider defendant's appeal.

The appeal is dismissed.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.